



U.S. Department of Justice

United States Attorney Southern District of New York

The Silvio J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

June 9, 2021

BY ECF AND EMAIL

Honorable Lorna G. Schofield United States District Judge Southern District of New York 40 Foley Square New York, New York 10007

Re: United States v. John D. McAfee and Jimmy G. Watson Jr., 21 Cr. 138 (LGS)

Dear Judge Schofield:

In this criminal commodities fraud, securities fraud, wire fraud, and money laundering conspiracy prosecution, the Office of the United States Attorney for the Southern District of New York (this "Office") respectfully submits this letter, with the consent of defendant Jimmy Gale Watson Jr. through his counsel, to jointly request on behalf of this Office and Watson that the Court grant an extension by approximately 90 days of the deadlines set forth in the Court's March 24, 2021 scheduling order (Dkt. 17), as follows:

Rule 16 Discovery: With respect to materials discoverable under Federal Rule of Criminal Procedure 16(a) that are currently in this Office's possession, custody or control, this Office will produce such materials to defendant Watson's counsel by September 16, 2021.² Watson and his counsel will produce to this Office by October 15, 2021 any materials discoverable under Rule 16(b) that are in currently in their possession, custody or control. To the extent that any of the parties later discovers additional materials that are discoverable under Rule 16, that party will promptly produce the additional materials to the other parties in this case.

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¹ Watson's co-defendant, John David McAfee, has been detained in Spain since October 2020 on separate criminal tax charges filed by the United States Department of Justice's Tax Division. This Office is in the process of requesting that McAfee be extradited from Spain for criminal prosecution in this case in the Southern District of New York. Through Nishay K. Sanan, Esq., who recently filed a notice of appearance on behalf of McAfee in this case, McAfee has indicated that he has no objection to the instant application by this Office and Watson for a 90-day extension of the deadlines in the March 24, 2021 scheduling order.

² With respect to materials required to be disclosed pursuant to *Brady* v. *Maryland*, <u>373 U.S. 83</u> (1963) and its progeny ("*Brady* materials") other than purely impeachment materials governed by *Giglio* v. *United States*, <u>405 U.S. 150</u> (1972) and its progeny ("*Giglio* materials"), this Office plans to include any *Brady* materials known to (and in the possession, custody or control of) this Office in the Rule 16 discovery materials that this Office will produce to Watson by September 16, 2021.

Rule 12(b)(3) Motions: Watson will file any pretrial motions under Rule 12(b)(3) by November 1, 2021. This Office will respond by November 29, 2021. Watson will file any replies by December 13, 2021.

Status Conference: The parties request a status conference during the week of December 13, 2021.

This Office and Watson expect that a schedule for any jury trial and related petrial submissions and disclosures (including any pretrial expert disclosures, Federal Rule of Evidence 404(b)(3) notices, exchanges of trial exhibits, witness disclosures, *in limine* motions, requests to charge, and proposed voire dire instructions) will be set at or after the status conference.

The Office also respectfully requests, with the consent of Watson through his counsel, that the Court exclude time under the Speedy Trial Act through the date set for the status conference pursuant to 18 U.S.C. § 3161(h)(6) because Watson is joined for trial with co-defendant McAfee, as to whom Speedy Trial Act time has not begun to run and no motion for severance has been granted, and pursuant to 18 U.S.C. § 3161(h)(7), in the interests of justice, to give Watson's counsel sufficient time to review discovery and prepare pretrial motions, and to permit the parties to engage in discussions regarding potential pretrial resolutions of Watson's case. The parties respectfully submit that the ends of justice served by the granting of the requested continuance outweigh the interests of the public and defendant Watson in a speedy trial.

Respectfully submitted,

AUDREY STRAUSS United States Attorney Southern District of New York

by: /s Samson Enzer / Elizabeth Hanft / Kiersten Fletcher Assistant United States Attorneys 212-637-2342 / -2334 / -2238

cc: Arnold A. Spencer, Esq.

Counsel for Defendant Jimmy G. Watson Jr.

Nishay K. Sanan, Esq.

Counsel for Defendant John D. McAfee

Application Granted in part. The Government shall produce any Rule 16 discovery by **September 16, 2021**. Defendant Watson shall produce any Rule 16 discovery by **October 15, 2021**. Defendant Watson's motion(s), if any, shall be filed by **November 1, 2021**. The Government's response, if any, shall be filed by **November 29, 2021**. Defendant's reply, if any, shall be filed by **December 13, 2021**. The status conference currently scheduled for October 28, 2021, is adjourned to **December 2, 2021**, at **11:00 a.m**. For the reasons stated above, the Court finds that the ends of justice served by excluding the time between today and December 2, 2021, outweigh the best interests of the public and the Defendant in a speedy trial as provided in 18 U.S.C. 3161(h)(7)(A). It is hereby ORDERED that the time between today and December 2, 2021, is excluded. The Clerk of the Court is directed to terminate the letter motion at docket number 29.

Dated: March 24, 2021 New York, New York

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE